

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON

HENRY KEITH WYKLE,

Petitioner,

v.

Civil Action No. 2:15-cv-09060

**DAVID BALLARD, Warden,
Mt. Olive Correctional Complex,**

Respondent.

**RESPONDENT'S MOTION TO DISMISS
PETITION AS UNTIMELY FILED**

Henry Keith Wykle (the “Petitioner”) filed a petition under 28 U.S.C. § 2254 for a writ of habeas corpus on July 1, 2015. Based upon the Procedural History as set forth in the Respondent’s Memorandum of Law filed herewith, the Petition is clearly untimely. The petitioner’s failure to file this action in a timely manner is also supported by the procedural recitation and supporting facts contained within his own petition.

Accordingly, the Respondent Warden, by counsel, moves to dismiss the present petition with prejudice for failure to file within the limitation period prescribed by 28 U.S.C. § 2244(d)(1).

Respectfully submitted,

DAVID BALLARD, Warden,
Respondent,

By counsel,

PATRICK MORRISEY
ATTORNEY GENERAL

/s/ Laura Young

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CERTIFICATE OF SERVICE

I hereby certify that on October 20, 2015, I electronically filed the foregoing “Respondent’s Motion to Dismiss” using the CM/ECF system, and I hereby certify that I have mailed, by United States Postal Service, a copy of said Answer to the following non-CM/ECF participant:

Henry Keith Wykle
DOC# 18472
Mount Olive Correctional Complex
One Mountainside Way
Mt. Olive, WV 25185

s/ Laura Young
LAURA YOUNG